

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.3663 OF 2007

M/s.Gopal Agencies ...Petitioner

Versus

The Miraj Urban Co-operative
Bank Ltd. & Ors. ...Respondents

.....

Mr.P.D.Pise for Petitioner.

None for Respondents.

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CORAM: A.M.KHANWILKAR, J.

JULY 6, 2007.

P.C.

1. Heard Counsel for the Petitioner.

2. I see no propriety in exercising writ jurisdiction to examine the correctness of the stand that the Petitioner has already deposited more than 50% of the recoverable dues referred to in the Recovery Certificate dated 2nd March 2001. Indeed, Counsel for the Petitioner has placed reliance on the receipts at pages 54 to 63 to

contend that he has deposited amount from time to time with the Respondent Bank which will far exceed 50% of the recoverable dues. The Petitioner may be justified in contending that the law does not require that the amount should be deposited before the Revisional Authority. If the Petitioner has already deposited such amount with the Respondent Bank pursuant to the Recovery Certificate, the Petitioner is right in contending that the said deposit will have to be reckoned for the purposes of Section 154 (2A) of the Cooperative Societies Act. That aspect will have to be considered by the Revisional Authority. The grievance of the Petitioner is that such request was made to the Revisional Authority but the Revisional Authority has not considered the same presumably on the ground that the deposit under Section 154 (2A) is required to be made before the Revisional Authority. This is only an inference to be drawn on the basis of argument pressed before this Court on behalf of the Petitioner. The order as passed on 30th July 2003 does not reflect that position. It merely says that Applicant has not deposited 50% of recoverable dues as provided under Section 154

(2A) of the Act. It will be open to the Petitioner to apply to the Revisional Authority afresh pointing out the material to support the stand that he has already paid amount which far exceeds 50% of the recoverable dues pursuant to the Recovery Certificate dated 2nd March 2001 bearing No.313 of 2000. If such application is made, the Revisional Authority will consider the same afresh and proceed to pass appropriate orders as may be advised.

3. This Petition is disposed of on the above terms.

4. It is made clear that this is not an expression of opinion either way on the correctness of the stand of the Petitioner including the issue that the Revision Application has become barred by limitation.

A.M.KHANWILKAR, J.